REMARKS

Favorable reconsideration of this application, as presently amended and in light of the following discussion, is respectfully requested.

Claims 1-3, 5-9, 11-12, and 14-15 are currently pending in the application. Claims 1-3, 5-9, 11-12, and 14-15 are amended by the present amendment. Claims 4, 10, 13, and 16 are canceled without prejudice or disclaimer by the present amendment. No new matter is presented.[1]

In the Office Action, Claims 1-16 were rejected under 35 U.S.C. § 103(a) as unpatentable over Gilbert et al. (U.S. Patent No. 6,560,577 B1, hereinafter "Gilbert '577") in view of Gilbert (U.S. Patent No. 6,763,274 B1, hereinafter "Gilbert '274").

Applicants wish to thank Examiner Olaniran for the courtesy of an interview extended to Applicants' representatives on January 27, 2009. During the interview, amendments clarifying the claims over the applied references were discussed. Remarks similar to those presented during the interview are included herein.

In light of the rejection on the merits, independent Claims 1 and 5-7 have been amended to clarify the claimed invention and to thereby more clearly patentably define over the applied references.

Independent Claim 1 recites an information processing apparatus including, in part, means for detecting, in which, "said means for detecting detects said inter-track boundaries of said plurality of tracks, based on an other level threshold value greater than said predetermined level threshold value, when the means for judging judges that said number of presumed tracks is less than said number of said plurality of tracks . . . ." Applicants respectfully submit that Gilbert '577 and Gilbert '274 fail to disclose or suggest these features.

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[1] The amendments to Claims 1 and 5-7 find support at least in Figure 20 and in its accompanying text in the specification.

Gilbert '577 concerns a process in which "If the number of discrete digital audio tracks does not match the indicated number of tracks, process 250 progresses to block B277 to display a message indicating a possible discrepancy with the number of tracks."[2] Further to Gilbert '577, "in block B286, the user, by virtue of a track-separating application 230F, manually designates the combination or division of the discrete digital audio tracks to match the indicated number of tracks."[3]

That is, Gilbert '577 merely describes a user designating a division of discrete digital audio tracks to match a number of tracks. Gilbert '577 does not describe detecting silence based on a second value when the number of the discrete digital audio tracks is less than the indicated number of tracks. Applicants respectfully submit that Gilbert '577 fails to disclose or suggest "said means for detecting detects said inter-track boundaries of said plurality of tracks, based on an other level threshold value greater than said predetermined level threshold value, when the means for judging judges that said number of presumed tracks is less than said number of said plurality of tracks," as recited in amended Claim 1.

Gilbert '274 concerns a "threshold [that] can be adjusted in response to background noise at the audio input to provide more accurate silence detection than for a non-floating threshold."[4]

That is, Gilbert '274 merely describes adjusting a threshold. Gilbert '274 does not describe adjusting the threshold when a first number of tracks is less than a second number of tracks. Applicants respectfully submit that Gilbert '274 does not disclose or suggest "said means for detecting detects said inter-track boundaries of said plurality of tracks, based on an other level threshold value greater than said predetermined level threshold value, when the

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[2] Gilbert '577, col. 4, ll. 58-61.
[3] Id., at col. 5, ll. 21-24.
[4] Gilbert '274 at col. 4, ll. 41-44.

means for judging judges that said number of presumed tracks is less than said number of

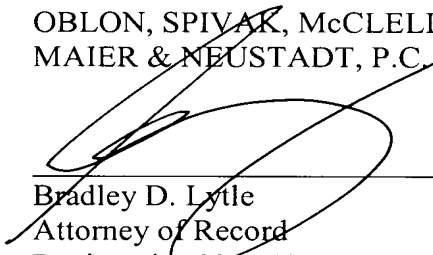said plurality of tracks," as recited in amended Claim 1.

Thus, Gilbert '577 and Gilbert '274, taken alone or in combination, fail to disclose or

suggest the "means for detecting" recited in amended Claim 1. Therefore, it is respectfully

submitted that independent Claim 1 (and all associated dependent claims) patentably

distinguishes over Gilbert '577 and Gilbert '274.

Applicants additionally submit that independent Claims 5-7 (and all associated

dependent claims) patentably define over Gilbert '577 and Gilbert '274 for the same reasons

as discussed above with regard to Claim 1 and for the more detailed features presented in

those claims.

Consequently, in view of the present amendment and in light of the foregoing

comments, it is respectfully submitted that the invention defined by Claims 1-3, 5-9, 11-12,

and 14-15 patentably distinguishes over the applied references. The present application is

therefore believed to be in condition for formal allowance. An early and favorable

reconsideration of the application is respectfully requested.

Respectfully submitted,

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